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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/505,486	02/16/2000	Timothy Robert Bratton	6037-003	5826

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EXAMINER

BACKER, FIRMIN

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 01/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicant N .

09/505,486

Applicant(s)

BRATTON, TIMOTHY ROBERT

Examiner

Firman Backer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

***Response to Arguments***

1. In view of the appeal brief filed on November 19<sup>th</sup>, 2003, PROSECUTION IS HEREBY REOPENED. A new action set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-49 rejected under 35 U.S.C. 103(a) as being unpatentable over Eller et al (U.S. Patent No. 5,889,860 (*applicant IDS*)) in view of Patel (U.S Patent No. 6,374,355)

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4. As per claim 1, Eller et al teach a method of encoding or encrypting data (*encryption secured computer system, 10*), comprising: providing an assembly of information-bearing sounds (ISA) (*database that includes various type of information such as digital music, literary or artistic works*) (*see fig 1, column 2 lines 15-47, 4 lines 15-64*) removing one or more selected segments of the assembly, to produce a specified data file (*see fig 1, column 2 lines 15-47, 4 lines 15-64*) providing an encoding/encryption key and encoding or encrypting the specified data file (*see fig 1, column 2 lines 15-47, 4 lines 15-64*). Eller et al fail to teach communicating the encoded or encrypted specified data file in a first selected communication channel and communicating the removed segments in a second selected communication channel. However, Patel teach an inventive concept of communicating the encoded or encrypted specified data file in a first selected communication channel and communicating the removed segments in a second selected communication channel (*see abstract, column 2 line 30-60*). Therefore, it would have been obvious to one of ordinary skill in the art at time the invention was made to modify the inventive concept of Eller et al to include Patel's communicating the encoded or encrypted specified data file in a first selected communication channel and communicating the removed segments in a second selected communication channel because this would have enhance the security of the system by protecting transfer or information over the communication channel.

5. As per claim 2, Eller et al teach a method further comprising providing a data supplement that indicates at least one of: location of at least one of the removed segments within the ISA; size of at least one of the removed segments within the ISA number of segments removed; separation distance between two consecutive removed segments within the ISA; and a selected

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portion of the encoding/encryption key; and communicating the data supplement in the second selected communication channel (*see fig 1, column 2 lines 15-47, 4 lines 15-64*).

6. As per claim 3, Eller et al teach a method further comprising providing the encoding/encryption key with at least one key parameter that uses information from at least one of the removed segments (*see column 8 lines 35-44*).

7. As per claim 4, Eller et al teach a method further comprising selecting the first and second communication channels to be the same channel (*see column 8 lines 35-44*).

8. As per claim 5, Eller et al teach a method further comprising providing the second channel as a secure communication channel (*see column 8 lines 35-44*).

9. As per claim 6, Eller et al teach a method further comprising concatenating the removed segments and the data supplement as a concatenated data file (*see column 8 lines 35-44*).

10. As per claim 7, Eller et al teach a method further comprising encrypting the specified data file using cipher block chaining of at least one block of the concatenated data file and at least one encrypted block from the specified data file (*see fig 1, column 2 lines 15-47, 4 lines 15-64*).

11. As per claim 8, Eller et al teach a method further comprising providing the at least one encoding/encryption parameter for the encoding/encryption key by providing a block of the concatenated data file as an initial block for the at least one encrypted block of the data (*see fig 1, column 2 lines 15-47, 4 lines 15-64*).

12. As per claim 9, 10, Eller et al teach a method further comprising removing at least first and second segments from the data file, where the first segment and the second segment have equal length or different lengths (*see fig 1, column 2 lines 15-47, 4 lines 15-64*).

13. As per claim 11, Eller et al teach a method further comprising combining the removed segments with the specified data file to form a combined data file and reproducing the combined data file as an assembly of sounds (*see fig 1, column 2 lines 15-47, 4 lines 15-64*).

14. As per claim 12, Eller et al teach a method of decoding or decrypting data, comprising: providing an encoded or encrypted first data file (*see fig 1, column 2 lines 15-47, 4 lines 15-64*) providing a second data file and a data supplement that indicates at least one of: an assigned location of at least one designated segment of the second data file within a non-coded and non-encrypted version of the first data file (*see column 8 lines 35-44*) size of at least one designated segment of the second data file within the non-coded and non-encrypted first data file; number of selected segments designated (*see fig 1, column 2 lines 15-47, 4 lines 15-64*); and using the data supplement to decode or decrypt the encoded or encrypted first data file and to position at least a first sequence and a second sequence, drawn from the second data file, within

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the first data file (*see fig 1, column 2 lines 15-47, 4 lines 15-64*). Eller et al fail to teach separation distance of at least two consecutive designated segments of the second data file within the non-coded and non-encrypted first data file; and a selected portion of an encoding/encryption key used to encode or encrypt the first data file. However, Patel teach an inventive concept of separation distance of at least two consecutive designated segments of the second data file within the non-coded and non-encrypted first data file; and a selected portion of an encoding/encryption key used to encode or encrypt the first data file (*see abstract, column 2 line 30-60*). Therefore, it would have been obvious to one of ordinary skill in the art at time the invention was made to modify the inventive concept of Eller et al to include Patel's separation distance of at least two consecutive designated segments of the second data file within the non-coded and non-encrypted first data file; and a selected portion of an encoding/encryption key used to encode or encrypt the first data file because this would have enhance the security of the system by protecting transfer or information over the communication channel.

15. As per claim 13-20, They disclosed the same inventive concept as claims 2-11. Therefore, they are rejected under the same rationale.

16. As per claim 21, Eller et al teach a method of communicating data, the method comprising providing an assembly of information-bearing sounds as a digital file of data removing one or more selected segments from the data file (*see fig 1, column 2 lines 15-47, 4 lines 15-64*), to produce a specified data file having at least a first block and a second block, providing an encoding/encryption key having at least a first key portion and a second key portion

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(*see fig 1, column 2 lines 15-47, 4 lines 15-64*), providing a data supplement that indicates at least one of: location of at least one of the removed segments within the data file (*see column 8 lines 35-44*), size of at least one of the removed segments within the data file; number of segments removed (*see fig 1, column 2 lines 15-47, 4 lines 15-64*) separation distance between two consecutive removed segments within the data file; and at least a portion of the encoding/encryption key; encoding or encrypting the first block and the second block of the specified data file, using the first portion and the second portion, respectively, of the encoding/encryption key (*see fig 1, column 2 lines 15-47, 4 lines 15-64*). Eller et al fail to teach communicating the encoded or encrypted specified data file in a first selected communication channel and communicating the removed segments in a second selected communication channel. However, Patel teach an inventive concept of communicating the encoded or encrypted specified data file in a first selected communication channel and communicating the removed segments in a second selected communication channel (*see abstract, column 2 line 30-60*). Therefore, it would have been obvious to one of ordinary skill in the art at time the invention was made to modify the inventive concept of Eller et al to include Patel's communicating the encoded or encrypted specified data file in a first selected communication channel and communicating the removed segments in a second selected communication channel because this would have enhance the security of the system by protecting transfer or information over the communication channel

17. As per claims 22-49, they disclosed the same inventive concept as claims 1-21.

Therefore, they are rejected under the same rationale.



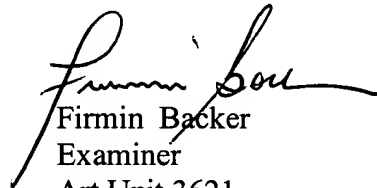
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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The examiner can normally be reached on Mon-Thu 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

  
Firmin Backer  
Examiner  
Art Unit 3621

January 9, 2004